

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

BRIGHAM AND WOMEN'S HOSPITAL,	:	CIVIL ACTION
INC., et al.	:	
	:	
v.	:	
	:	
TEVA PHARMACEUTICALS USA, INC.,	:	
et al.	:	No. 08-464

FIRST SCHEDULING ORDER

AND NOW, this 31st day of October, 2008, following a status conference in the above case, it is hereby ORDERED that:

1. The Local Rules of Civil Practice and Procedure of the United States District Court for the District of Delaware will apply to the instant proceedings.

2. All fact discovery shall proceed forthwith and continue in such manner as will assure that all requests for, and responses to, discovery will be substantially completed on or before April 1, 2009.

3. The parties may take no more than a combined total of fifteen (15) fact depositions without further leave of court.

4. Parties shall file and serve any motion to amend the pleadings on or before May 1, 2009.

5. Parties shall exchange proposed Markman claim terms and constructions on or before June 1, 2009.

6. Parties shall file and serve opening claim construction briefs on or before July 1, 2009.

7. Parties shall file and serve responsive claim construction briefs on or before August 3, 2009.

8. The Court will hold a claim construction hearing on September 16 and 17, 2009.

9. All fact discovery shall proceed forthwith and continue in such manner as will assure that all requests for, and responses to, discovery will be served, noticed, and completed on or before October 15, 2009.

10. Parties shall serve reports of expert witnesses with respect to issues on which they have the burden of proof on or before November 30, 2009.

11. Parties shall serve any responsive reports of expert witnesses on or before January 15, 2010.

12. All expert discovery shall proceed in such manner as will assure that all requests for, and responses to, discovery will be served, noticed, and completed on or before March 1, 2010.

13. Every factual assertion in any brief shall be supported by a citation to the record where that fact may be found.

14. All parties shall prepare and file with the Clerk of Court their Pretrial Memoranda, in accordance with this Order, and any motions in limine as follows:

A. Plaintiffs - on or before April 22, 2010; and

B. Defendants - on or before April 29, 2010.

15. The case will be placed in the trial pool on May 3, 2010.

16. Any party having an objection to: (A) the admissibility for any reason (except relevancy) of any evidence expected to be offered or (B) the adequacy of the qualifications of an expert witness expected to testify shall set forth separately each such objection in its Pretrial Memorandum. Such objection shall describe with particularity the ground and the legal authority for the objection.

17. The Pretrial Memorandum shall also identify the other significant legal issues involved in the case, together with appropriate citations and other legal authority.

18. If any party desires an "offer of proof" as to any witness or exhibit expected to be offered, that party shall inquire of counsel prior to trial for such information. If the inquiring party is dissatisfied with any offer provided, such party shall file a motion seeking relief from the Court prior to trial.

19. At least five (5) working days before the case is placed in the trial pool, each party shall submit to the Court, and serve on each other, proposed findings of fact and conclusions of law. The statement will list each proposed finding and conclusion in a separate numbered paragraph. Counsel should be concise and propose only those findings and conclusions that are essential to the claim or defense at issue. Conclusions of law should be accompanied by appropriate citations of legal authority. The parties may supplement their submissions in light of the evidence presented at trial.

13. If a party uses any version of the WordPerfect word processing system, it is urged to provide the Court with a disk containing the proposed findings of fact and conclusions of law.

20. Before commencement of trial, counsel will pre-mark and exchange all exhibits. The Court should be supplied with two (2) separate sets of exhibits, and a schedule of exhibits which shall briefly describe each exhibit.

BY THE COURT:

/s/ Harvey Bartle III  
Harvey Bartle III C.J.  
SITTING BY DESIGNATION